

MEMORANDUM FOR: General Counsel

SUBJECT: Pay of Consultants and Experts

1. The compensation of consultants and experts in the Agency is subject to a limitation of \$50 per day included in the National Security Act of 1947, as amended in 1949, Section 303. (a).

2. Agencies under the Classification Act of 1949 employ consultants and experts under the provisions of Public Law 600 and are thereby authorized to hire consultants and experts at rates not in excess of the per diem equivalent of the highest rates payable under the act. This provision of the law has been interpreted by the Comptroller General in Unpublished Decision B-134645, January 7, 1958 as meaning not above the top longevity step of GS-15. Under the present pay act this rate is approximately \$60 a day. While the Agency follows the Classification Act of 1949 generally, it is questionable whether this rate for consultants could be followed in the face of the specific limitation of the National Security Act of 1947.

3. Higher rates than \$60 a day are authorized by law for certain agencies. NSA, for example, can pay up to \$75 a day and AEC up to \$100 a day. This has created a problem in some cases where an individual receiving \$75 a day for work at NSA comes to this Agency and is limited to \$50 a day for equivalent advice.

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4. It is understood that the Director may under his general authority pay any sum for consultants and experts irrespective of the limitation of the National Security Act of 1947 when they are of a confidential, extraordinary or emergency nature and payment is by unvouchered funds. However, it is not considered desirable to use this authority for ordinary headquarters staff purposes.

5. The Secretary of Defense, the Chairman of the National Security Resources Board, and the National Security Counsel are included under the \$50 limitation in the National Security Act of 1947. However all of these organizations are under the Classification Act. Therefore the \$60 limitation of the Public Law 600 rather than the \$50 limitation would apply to these agencies unless some higher rate has been authorized them under another law.

6. In the absence of the specific limitation of National Security Act of 1947 it is understood that the Director could authorize payment of any sum for consultants under his general authority and could thus maintain consistency with other agencies.

7. It is requested therefore that action be taken to secure the amendment of Section 303. (a) of the National Security Act of 1947 to delete the reference to \$50 a day for each day of service. Possibly the amendment could read "at any rate authorized under existing law".

EMMETT D. ECHOLS

CONCURRENCE:

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Deputy Director (Support)

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Date

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